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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/937,591	09/27/2001	Bard Lotveit	CU-2651 RJS	2682
7590 04/19/2004				
Richard J Streit Ladas & Parry Suite 1200 224 South Michigan Avenue Chicago, IL 60604		EXAMINER MAKI, STEVEN D		
		ART UNIT PAPER NUMBER 1733		
DATE MAILED: 04/19/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

AS

Office Action Summary	Application No. 09/937,591	Applicant(s) LOTVEIT, BARD	
	Examiner Steven D. Maki	Art Unit 1733	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 January 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 2, 4-8 and 10-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-2, 4-8 and 10-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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- 1) Claims 1, 2, 4-8 and 10-21 are objected to because of the following informalities:

The print of the fax of the claims is not clear. In particular, parts of some of the words in claims 1, 2, 4-8 and 10-21 along the left margin are missing. Examples: Claim 1 line 5 describes "mate ial". Claim 20 line 1 describes "whee ,". Claim 20 line 4 describes "a belt mad substantially". Appropriate correction is required.

In claim 1 line 13, "when then device" should be --when the device--.

In claim 20 lines 16-17, "when then device" should be --when the device--.

- 2) The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

- 3) Claims 2, 6 and 20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 2 describes "an internal circumference of the belt is 4-10% larger than the outer circumference of the wheel". One of ordinary skill in the art is not reasonably appraised of the scope of protection afforded by this language. Claim 2 is not limited to the combination of the device and the vehicle wheel. The claimed device can be applied to a tire wherein the "claimed internal circumference" is equal to (instead of 4-10% larger than) of the outer circumference of the wheel. The meets and bounds of claim 2 are ambiguous since the claimed internal circumference is defined with respect to the unclaimed wheel (the intended use) and *changes* with different wheels having different circumferences.

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Claim 6 is indefinite for the reasons given for claim 2. In claim 6, the claimed circumference of the opening is defined with respect to the unclaimed wheel (the intended use of the device).

In claim 20, the description of the device, which is described twice using different language, is ambiguous. It appears that the underlined description was intended to replace the original language. In claim 20 lines 4-13, it is suggested to delete --a belt mad substantially from textile material ... at least 4% larger than the largest circumference of the wheel--.

4) The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5) The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6) **Claims 1, 2, 6 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Krueger (US 2682907).**

On page 2 of the response filed 1-21-04, describes Krueger as follows: "Krueger discloses a device having an annular belt and first and second flexible side portions. Both side portions are tightened against the wheel by an elastic member. This allows

the device to be affixed to the wheel by passing either of the first or second side portions over the wheel to the inside."

As to claim 1, the claimed device is anticipated by the traction increasing means of Krueger. The claimed belt, inner side portion and outer side portion read on the endless annular elongated member 12 of flexible material such as canvas or the like. The description of "textile material" reads on canvas. The claimed elastic member reads on annular coil springs. As to "...prevents entire device from passing over to the inner side surface of the wheel", Krueger clearly satisfies this subject matter. See (1) figures 1 and 2, (2) Krueger's teaching that the device "may be conveniently and effectively installed in position on the tire to substantially increase the traction thereof while traveling over mud, snow, ice or other slippery surfaces" (col. 1 lines 5-8, emphasis added) and (3) Krueger's teaching that "the side edges of the member 12 being provided with annular hems 18 having annular coil springs 20 disposed therein for the purpose of contracting the member 12 and sustaining the same in position on the tire" (col. 1 lines 47-52, emphasis added).

As to claim 2, the description of "the internal circumference of the belt is 4-10% larger than the outer circumference of the wheel" fails to require an internal circumference different from that disclosed by Krueger. Claim 2 fails to exclude fitting the device on a wheel wherein the internal circumference of the device is the same as the wheel. The same is true for claim 6.

As to claim 7, note the side portions of the elongated member 12 of the traction increasing means.

7) Claims 1, 2, 4 and 6-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Krueger (US 2682907) in view of Wollheim (US 1910416).

Krueger is considered to anticipate claim 1. In any event: As to "elastic member", it would have been obvious to use an "elastic member" instead of a contractable annular coil spring 20 since Wollheim, directed to a tire cover which is structurally similar to the tire traction increasing means of Krueger, teaches that an elastic band is an alternative to a coiled metal spring for exerting tension for holding a cover on a tire.

As to claim 2, the description of "the internal circumference of the belt is 4-10% larger than the outer circumference of the wheel" fails to require an internal circumference different from that disclosed by Krueger. Claim 2 fails to exclude fitting the device on a wheel wherein the internal circumference of the device is the same as the wheel.

As to claim 4, the limitation of the outer side portion covering substantially the outer side of the wheel would have been obvious in view of Wollheim's teaching that a tire cover, if desired may be a solid sheet (covering that entire side of the tire).

As to claim 6, the limitation of the outer side portion having at least one opening would have been obvious since the traction increasing means of Krueger has an opening on each side.

As to claim 7, Krueger suggests the claimed straps. See for example strips 32. Claim 7 fails to require the straps to have a length corresponding to the diameter of the device.

As to claim 8, the limitation therein would have been obvious since (1) Wollheim, as noted above, suggests using an elastic band and (2) "a rubber elastic material which is covered by a spun, woven or knitted substantially inelastic thread material, the thread material limiting the extensibility of the elastic member" is taken as a well known / conventional rubber band per se. The suggestion to use a rubber band in Krueger comes from Wollheim instead of the official notice.

8) Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Krueger (US 2682907) in view of Wollheim (US 1910416) as applied above and further in view of Japan '503 (JP 1-249503).

As to the "internal circumference", it would have been obvious to use the endless annular traction increasing means of Krueger on a tire such that the internal circumferential of the endless annular traction increasing means is 4-10% larger than the outer circumference of the tire in view of Japan '503's suggestion to apply an endless annular tire anti-slip band to a tire such that a gap is formed between the internal surface of the endless annular tire anti-slip band and the outer surface of the tire to prevent slipping of the tire and damaging of the road surface.

9) Claims 5 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Krueger (US 2682907) in view of Wollheim (US 1910416) as applied above and further in view of German '291 (DE 2355291).

As to claim 5, it would have been obvious to use the claimed netting as the textile for the traction increasing means (an anti-slip device) since German '291 suggests using a netting for an anti-slip device.

As to claim 21, it would have been obvious to use the claimed netting as the textile for the traction increasing means (an anti-slip device) since (a) German '291 suggests using a netting for an anti-slip device wherein the netting comprises polyester threads and (b) a netting comprising PVC coated 1100dtex polyester multifilament material" is taken as a well known / conventional netting per se. The net opening of 2-7 mm would have been obvious and could have been determined without undue experimentation in view of German '291's teaching to obtain the result of anti slip using a netting.

10) Claims 10-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Krueger (US 2682907) in view of Wollheim (US 1910416) as applied above and further in view of at least one of Riggs et al (US 5439727), Peterson (US 3335776) and German '291 (DE 2355291).

As to claims 10-19, it would have been obvious to use a woven textile for Krueger's traction increasing means since (a) Krueger broadly suggests using a textile for the traction increasing means (canvas is merely exemplary) and (b) it is known in the tire art to use a woven textile for covering the tread of a tire as evidenced by at least one of Riggs et al, Peterson and German '291. Riggs et al discloses a woven polyamide having a water resistant coating for a tire cover so that it readily conforms to the surface of the tire. Peterson discloses using a woven fabric including cross wide fibers for a traction improving means. German '291 discloses weaving threads to form a netting for a anti-slip device. As to claims 10, 11 and 15, Riggs et al suggests a textile comprising woven polyamide and being coated with a water resistant coating - it being

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well known to form water resistant material from plastic / polymer. The use of two layers as an alternative to one layer is suggested by Krueger. As to claims 12 and 13, German '291 suggests using polyester threads. As to claim 14, the limitation therein would have been obvious since it is taken as well known / conventional per se to use a colored layer beneath a ground contacting layer to indicate wear; it being noted again that the use of two layers as an alternative to one layer is suggested by Krueger. As to claims 16 and 17, it would have been obvious to interconnect the textile layers using a yarn since it is taken as well known / conventional per se in the textile art to hold textile layers together using a yarn - the use of two textile layers for a traction increasing means is suggested by Krueger. As to claims 18 and 19, note Riggs et al suggestion to coat the woven polyamide with water resistant material - low friction being a relative term and it being taken as well known per se that water resistant materials include silicone rubber, PVC.

11) Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Krueger (US 2682907) in view of Wollheim (US 1910416) as applied above and further in view of Asano (WO 86/00579) and Bowler (US 3007506).

As to claim 20, it would have been obvious to fit Krueger's traction increasing device on a wheel (tire) as claimed since: (1) Krueger teaches applying the endless annular traction increasing device on a tire so that it can increase traction of the tire and (2) it is well known in the tire art to facilitate fitting of a traction device on a tire by using rotation of the tire as evidenced by Asano and Bowler.

Remarks

12) Applicant's arguments filed 1-21-04 have been fully considered but they are not persuasive.

As to the 102 rejection, applicant argues that Krueger does not disclose "an outer side portion, without an elastic member, which restricts the movement of the device to the inside of the wheel". This argument is not commensurate in scope with the claims and is therefore not persuasive since none of the claims require "an outer side portion, without an elastic member, which restricts the movement of the device to the inside of the wheel" (emphasis added).

As to the 102 rejection, applicant argues that, while the elastic members of Krueger on both sides of the device allow for easier installation from either side of the device, the unforeseen problem occurs in that the device is easily and inadvertently removed from the wheel during cornering maneuvers in the vehicle". This argument is not commensurate in scope with the claims and is therefore not persuasive since none of the claims exclude a device which is "...easily and inadvertently removed from the wheel during cornering maneuvers"

As to the 103 rejection, applicant's arguments regarding the cover of Wollheim creeping out are off point. Claim 1 requires an "elastic member" instead of a device which does not creep out. Since Wollheim provides the suggestion to use an elastic band instead of a coil spring in Krueger's traction increasing device, the 103 rejection is proper and is maintained.

Applicant argues that none of the references identify the problem of wheel creep during cornering. More properly, none of the claims require a device which prevents wheel creep during cornering.

13) No claim is allowed.

14) Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

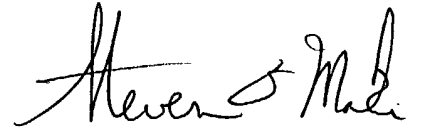
15) Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven D. Maki whose telephone number is (571) 272-1221. The examiner can normally be reached on Mon. - Fri. 7:30 AM - 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Crispino can be reached on (571) 272-1226. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Steven D. Maki
April 16, 2004


STEVEN D. MAKI 4-16-04
PRIMARY EXAMINER
~~GROUP 1300~~
Av 1733